

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DAVID L. HAWK,	:	Civil Action No. 10-6140 (FSH)
	:	
Plaintiff,	:	
	:	<u>ORDER</u>
v.	:	
	:	
NEW JERSEY INSTITUTE OF	:	September 16, 2011
TECHNOLOGY,	:	
	:	
Defendants.	:	
	:	

This matter having come before the Court upon Plaintiff's motion for an order vacating the Court's Order of judgment entered on June 14, 2011 pursuant to Fed. R. Civ. P. 59(e); and the Court having received opposition to the motion by Defendants; and the Court having considered this motion without oral argument pursuant to Fed. R. Civ. P. 78; and

it appearing that to obtain relief under Rule 59(e) a party must demonstrate that "(1) an intervening change in the controlling law has occurred, (2) evidence not previously available has become available, or (3) it is necessary to correct a clear error of law or to prevent manifest injustice;"¹ and

it further appearing that Rule 59(e) permits a court to revisit a judgment to correct "manifest errors of law or fact or to present newly discovered evidence,"² and

¹ *A.K. Stamping Co. v. Instrument Specialties Co.*, 106 F.Supp.2d 627, 662 (D.N.J. 2000) (citing *N. River Ins. Co. v. Cigna Re-Insurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)).

² *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985), *cert. denied*, 476 U.S. 1171 (1986).

it appearing that (1) there has been no intervening change in controlling law; (2) no new evidence has been presented that was not available for the Court to consider; and (3) there has been no clear error of law or manifest injustice;

IT IS therefore on this 16th day of September, 2011,

ORDERED that Plaintiff's motion for an order vacating the Court's Order of judgment entered on June 14, 2011 pursuant to Fed. R. Civ. P. 59(e) [docket # 79] is **DENIED**.

s/ Faith S. Hochberg
HON. FAITH S. HOCHBERG, U.S.D.J.